

CODE OF THE COUNTY OF YORK

Chapter 14.3

MASSAGE PARLORS¹

CONTENTS

Sec. 14.3-1. Definitions.	14.3 - 2
Sec. 14.3-2. Permit—Required.	14.3 - 2
Sec. 14.3-3. Same—Exemptions.	14.3 - 3
Sec. 14.3-4. Same—Application.	14.3 - 3
Sec. 14.3-5. Same—Referral of application to certain administrative officers.	14.3 - 4
Sec. 14.3-6. Same—Issuance.	14.3 - 4
Sec. 14.3-7. Display of permit and list of employed technicians.	14.3 - 5
Sec. 14.3-8. Permit fees for massage parlor and massage technicians.	14.3 - 5
Sec. 14.3-9. Required facilities; maintenance.	14.3 - 6
Sec. 14.3-10. Hours of operation.	14.3 - 7
Sec. 14.3-11. Operating requirements.	14.3 - 7
Sec. 14.3-12. Health requirements for operators and technicians; serving patrons with skin infections.	14.3 - 7
Sec. 14.3-13. Right of inspection.	14.3 - 8
Sec. 14.3-14. Records of treatment; giving false name when seeking massage prohibited.	14.3 - 8
Sec. 14.3-15. Alcoholic beverages.	14.3 - 8
Sec. 14.3-16. Massage of certain portions of the body prohibited; exposure of certain portions of body prohibited.	14.3 - 8
Sec. 14.3-17. Where massage permitted.	14.3 - 9
Sec. 14.3-18. Responsibilities of permittee.	14.3 - 9
Sec. 14.3-19. Revocation and suspension of permits—Generally.	14.3 - 9
Sec. 14.3-20. Permit nontransferable; grounds for revocation of permit.	14.3 - 10
Sec. 14.3-21. Penalty.	14.3 - 10
Sec. 14.3-22. Severability.	14.3 - 10

¹Cross reference—Licenses generally, Ch. 14; classification of business, § 14-27.

Sec. 14.3-1. Definitions.

For the purposes of this chapter, the following words and terms shall have the meanings respectively ascribed to them by this section:

Applicant. Any person applying for a permit under this chapter and must include all partners, including limited partners, of a partnership applicant, all officers and directors of a corporate applicant and any stockholder holding more than five percent (5%) of the stock or a corporate applicant.

Approved school. Any school recognized by or approved by or affiliated with the American Massage and Therapy Association, Incorporated.

Certified massage therapist. Any person who has been certified as a massage therapist pursuant to the provisions of §54.1-3029, Code of Virginia.
(Ord. No. O97-31, 11/19/97)

Director. The health director of the York-Poquoson Health Department, or his designee.

Employee. Any person, other than a massage technician, who renders any service in connection with the operation of a massage parlor and receives compensation from the operator of the business or patrons.

Massage. A method of treating the external parts of the body for remedial or hygienic purposes, consisting or rubbing, stroking, kneading or tapping with the hand or any instrument.

Massage parlor. Any place conducting a business where any person engages in, conducts or carries on, or permits to be engaged in, conducted or carried on, any business of giving Turkish, Swedish, vapor, sweat, electric, salt, magnetic or any other kind or character of massage, baths, alcohol rub, formentation, manipulation of the body or other similar procedure.

Massage technician. Any person, male or female, including, but not limited to, a massage parlor operator, who administers to another person, for any form of consideration, a massage, alcohol rub, bath, manipulation of the body or any similar procedure.

Patron. Any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

Person. Any individual, co-partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

Permittee. The operator of a massage establishment that has a valid permit issued under this chapter.

Sexual or genital area. The genitals, pubic area, anus or perineum of any person, or the vulva or breast of a female.

Sec. 14.3-2. Permit—Required.

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises within the county, the business of a massage parlor, or to conduct or carry on, or permit to be carried on, the business of rendering massage parlor services

at a location removed from a massage parlor within the county without a permit pursuant to the provisions of this chapter, or a permit having been issued, while such permit shall have been suspended or revoked.

Sec. 14.3-3. Same—Exemptions.

Except as otherwise provided in this section, the requirements of this chapter shall not apply to:

- (a) a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the Commonwealth; or
- (b) a licensed nurse acting under the direct prescription and direction of a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the Commonwealth; or
- (c) persons in barber shops or beauty parlors, licensed as such by the County, so long as massage is given only to the scalp, the face, the neck or the shoulders, provided that the provisions of § 14.3-16 shall apply to such persons; or
- (d) a certified massage therapist who has obtained a business license in the County pursuant to § 14-27(d) of this code, provided that the provisions of § 14.3-16 shall apply to such therapist.

Any person claiming exemption from the provisions of this chapter pursuant to this section shall, upon the request of any law enforcement officer, the director, or the County Administrator, produce documentary evidence to establish such claim.

14.3-4. Same—Application.

- (a) Any person desiring a permit to operate a massage parlor or establishment shall make application to the director who shall refer all such applications to the county administrator for investigation. An application to obtain or renew a permit to operate a massage establishment shall be accompanied by a receipt showing payment to the county treasurer of the permit fee required under section 14.3-8 of this chapter.
- (b) The application to obtain or renew a permit to operate a massage parlor shall set forth the exact nature of the massage to be administered and at the proposed place of business and facilities therefor. The application shall include a list of the massage technicians presently employed or to be employed indicating name, age, height, weight, sex, qualifications and experience, and a medical history of any contagious or communicable diseases presently had and being treated or cured within the previous three (3) years.
- (c) In addition to the foregoing, any applicant for a permit shall furnish the following information:
 - (1) Name and address.
 - (2) Written proof of age.
 - (3) All residential addresses for the past three (3) years.
 - (4) Height, weight, color of eyes and hair, and sex.

- (5) A complete set of fingerprints and a portrait photograph of the applicant, giving a clear view of the applicant's face.
- (6) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of application.
- (7) Previous experience of the applicant as a massage parlor operator or a massage technician.
- (8) All criminal convictions, other than traffic offenses, and places of conviction of the applicant and all massage technicians to be employed.
- (9) A complete medical history of the person who shall be directly responsible for the operation and management of the massage parlor including a list of all contagious or communicable diseases had by the manager within the past three (3) years and the name of person, with address, giving treatment.

If the applicant is a corporation or a partner in a partnership is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation.

- (11) Written proof of graduation from an approved school by the person who shall be directly responsible for the operation and management of the massage parlor and for each massage technician employed therein.

Authorization for the county, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application.

A currently dated written declaration duly signed by the applicant before a notary public under penalty of perjury that the foregoing information contained in the application is true and correct.

- (14) In the case of a renewal application, reference may be made to the original application for information which has remained unchanged.

Sec. 14.3-5. Same—Referral of application to certain administrative officers.

The director shall refer such application to the county administrator within five (5) days of its receipt. The county administrator shall forward copies of such application to the administrative department of the county charged with the enforcement of the building, plumbing, electric and fire prevention codes. A copy of such application shall also be referred to the sheriff's department by the county administrator. In addition, the director shall retain a copy of said application, inspect the premises and report to the county administrator as hereinafter provided. Each department shall, within then (10) days, inspect the premises proposed to be operated as a massage parlor and make written recommendations to the county administrator concerning compliance with the codes that they administer.

Sec. 14.3-6. Same—Issuance.

Within sixty (60) calendar days of the application, the director shall issue, or reissue in case the permit has expired or been revoked, the permit if he shall find:

- (a) The premises to be used or constructed meets the building and fire prevention codes of the county as reported by the administrative officer of the county.
- (b) All persons who shall perform as massage technicians within the past thirty (30) days have undergone a physical examination by a physician duly licensed by and practicing in the Commonwealth of Virginia and have furnished to the director a certificate signed by such examining physician stating that the person examined is either free from any contagious or communicable diseases or incapable of communicating any of such disease to others.
- (c) The operation, as proposed by the applicant, if permitted, would comply with all of the requirements of this chapter and all other applicable laws.
- (d) The applicant and the manager or other person principally in charge of the operation of the business has not been convicted of any crime involving dishonesty, fraud or deceit, unless such conviction occurred at least five (5) years prior to the date of application.
- (e) The manager or other person principally in charge of the operation of the business and each massage technician holds a certificate issued by an approved school evidencing that such certificate holder meets all qualifications and requisites established by the American Massage and Therapy Association, Inc. for a massage technician or for a massage parlor operator as the case may be. In addition, such certificate holder meets all qualifications and requisites established by the American Massage and Therapy Association, Incorporated, for a massage technician or for a massage parlor operator as the case may be. In addition, such certificate holder shall provide documented evidence acceptable to the director showing the completion of at least five hundred (500) hours of experience performing substantially the same duties as those called for in the position for which the permit is sought. Experience gained in obtaining the required certificate may be counted.
- (f) The applicant has not made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the county in conjunction therewith.

Every massage parlor permit issued pursuant to this chapter will terminate as of January 31 next following the date of its issuance unless sooner suspended or revoked.

14.3-7. Display of permit and list of employed technicians.

Every person to whom a permit shall have been granted shall display such permit in a conspicuous place so that the same may be readily seen by anyone entering the premises where the massage is given. Such permittee shall also display in a conspicuous place a list showing the names of all massage technicians employed and the names of all operators or managers whether or not they be massage technicians. If the massage parlor has a reception area or the equivalent, the display required by this section shall be in such reception area or equivalent space.

14.3-8. Permit fees for massage parlor and massage technicians.

The permit fees here provided are the costs of investigations by the county administrator, the health department and other departments, and regulation by the county administrator and director. In addition, permittees must obtain a county business license issued pursuant to chapter 14 of this Code.

- (a) An initial permit application fee of five hundred dollars (\$500.00) shall be paid to the county treasurer by each applicant for a massage parlor permit. The permit, when issued, shall remain in force until January 31 of the next following year. The permittee must renew such permit by February 1, of each ensuing year by filing the required renewal application and paying a renewal permit fee of one hundred dollars (\$100.00) to the county treasurer not later than the first day of December of each year immediately preceding the expiration of the permit.
- (b) An initial permit application fee of fifty dollars (\$50.00) shall be paid to the county treasurer by each applicant for a massage technician permit. The permit, when issued, shall remain in force until January 31 of the next following year. The permittee must renew such permit by February 1 of each ensuing year by filing the required renewal application and paying a renewal fee of ten dollars (\$10.00) to the county treasurer not later than the first day of December of each year immediately preceding the expiration of the permit.
- (c) No permit fee shall be pro-rated nor shall any permit be transferable to another person.

Sec. 14.3-9. Required facilities; maintenance.

Each massage parlor shall have, and maintain in a clean, sanitary and workable condition:

- (a) Adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.
- (b) Washbasins provided with both hot and cold running water installed in either the toilet room or a vestibule immediately adjacent thereto. Washbasins shall be provided with soap and dispenser with sanitary towels.
- (c) Closed cabinets used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets which containers or cabinets shall be kept separate from the clean storage areas.
- (d) Adequate bathing, dressing, locker and toilet facilities provided for patrons. A minimum of one (1) tub or shower, one (1) dressing room containing a separate locker capable of being locked for each patron, one (1) toilet and one (1) washbasin shall be provided by each massage parlor. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for half of the water closets for male patrons after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.
- (e) If male and female patrons are to be served simultaneously at the establishment, separate bathing, massage and dressing rooms provided for each sex.
- (f) A service sink for custodial services provided either in the massage parlor quarters or on the floor of the building on which the quarters are located.
- (g) Massage tables, bathtubs, shower stalls and steam or bath areas with nonporous surfaces which may be readily disinfected.

Sec. 14.3-10. Hours of operation.

No massage parlor shall remain open for business nor shall any massage be administered to any patron of any such business between the hours of 10:00 p.m. and 6:00 a.m. the following morning.

Sec. 14.3-11. Operating requirements.

- (a) Every portion of the massage parlor, including appliances and apparatus, shall be clean and operated in a sanitary condition.
- (b) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
- (c) All employees and massage technicians shall be clean and wear clean, nontransparent outer garments.
- (d) Clean and sanitary towels and linens shall be provided for each patron of the massage parlor. No common use of towels or linens shall be permitted.
- (e) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and other physical facilities shall be kept in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use. When carpet is used on the floors, it shall be kept dry.
- (f) Oils, creams, lotions or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.
- (g) Eating in the massage work areas shall not be permitted. Animals, except for seeing eye dogs, shall not be permitted in the massage work areas.
- (h) Each massage technician shall wash his hands in hot running water using proper soap or disinfectant before administering a massage to each patron.
- (i) Smoking shall not be permitted within the massage work areas.

Sec. 14.3-12. Health requirements for operators and technicians; serving patrons with skin infections.

- (a) No massage parlor operator or massage technician shall give massage or come in contact with a patron of any massage parlor unless such operator or massage technician shall be free of any contagious or communicable disease. The director or his designee may, for cause, require that an operator or massage technician not be allowed to give massage unless and until any such person provides him with a certificate from a medical doctor duly licensed and practicing in the Commonwealth of Virginia that such person has been examined within the previous ten (10) days and found to be free of all contagious or communicable disease.
- (b) No massage technician shall knowingly serve any patron infected with any fungus or other skin infection; nor shall service be performed on any patron exhibiting skin inflammation or eruptions;

provided, however, that a duly licensed physician may certify that any such patron may be safely served prescribing the conditions thereof.

- (c) All massage technicians shall undergo a physical examination for contagious and communicable diseases and shall furnish to the director a certificate based upon said examination, issued with thirty (30) day thereof, and signed by a physician duly licensed by the Commonwealth of Virginia stating that the person examined is either free from any contagious or communicable disease or incapable of communicating any of such disease to others prior to the commencement of employment and at least once every year thereafter.

14.3-13. Right of inspection

The sheriff's department and the York-Poquoson Department of Health shall, from time to time, at least twice a year, make an inspection of each massage parlor granted a permit under the provisions of this chapter for the purposes of determining whether the provisions of this chapter are complied with. Such inspections shall be made at reasonable times and in a reasonable manner and shall be a condition of the permit granted. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

14.3-14. Records of treatment; giving false name when seeking massage prohibited.

- (a) Every person operating a massage parlor under a permit as provided in this chapter shall keep a record of the date and hour of each treatment, the name and address of each patron, and the name of the technician administering such treatment. Such record shall be open to inspection by the director, or his designee, and other law enforcement officers of the county.
- (b) It shall be unlawful for any person, while seeking massage, to give a false or fictitious name to a massage parlor operator or employee. Any person giving a false or fictitious name to a massage parlor operator or employee while seeking massage shall be guilty of a Class 4 misdemeanor and, upon conviction thereof, shall be punished in accordance with section 1-10 of this Code.

14.3-15. Alcoholic beverages.

No person shall sell, give, dispense, provide or keep or cause to be sold, given, dispensed or kept, any alcoholic beverage on the premises of any massage business.

14.3-16. Massage of certain portions of the body prohibited; exposure of certain portions of body prohibited.

- (a) It shall be unlawful for any massage technician or any other person in a massage parlor to place his hand or hands upon, to touch with any portion of his body, to fondle in any manner, or massage the sexual or genital areas, or any portion thereof, of any other person.
- (b) It shall be unlawful for any massage technician or any other person employed in a massage parlor to expose his sexual or genital areas, or any portions thereof, to any other person.

- (c) It shall be unlawful for any massage technician or any other person employed in a massage parlor to fail to conceal with a fully opaque covering any sexual or genital areas of his body while in the presence of any patron of said massage parlor.
- (d) It shall be unlawful for any female massage technician or any other female person employed in a massage parlor to fail to conceal with a fully opaque covering the nude breast or breasts of said female massage technician or other female person while in the presence of any patron of such massage parlor.
- (e) It shall be unlawful for any person owning, operating or managing a massage parlor knowingly to cause, allow or permit in or about such massage parlor any agent, employee or other person under his control or supervision to perform such acts prohibited in subsections (a), (b), (c) or (d) of this section.

14.3-17. Where massage permitted.

Each massage parlor shall have one area designated for massage; or, in the event massage is administered to both sexes during the same time, such massage parlor shall have two (2) separate massage areas, one being for male patrons and one being for female patrons. All massages shall be administered in said massage area or areas as the case may be, and no massages shall be administered in private rooms or behind closed doors. The massage area or areas, as the case may be, shall be open to inspection by the director or his designee, and other law enforcement officer of the county during business hours.

14.3-18. Responsibilities of permittee.

No person granted a massage parlor permit pursuant to this chapter shall operate under any name or at any location not specified in his permit. The permittee shall be responsible for maintaining the premises in accordance with the requirements of this chapter and for the conduct of all agents and employees in complying with the requirements of this chapter. No permittee shall permit in his premises activity or behavior prohibited by the laws of the United States, Commonwealth of Virginia, or this county relating to gambling, prostitution, sodomy, adultery, fornication, lewd and lascivious cohabitation or other laws relating to obscenity or moral turpitude.

Sec. 14.3-19. Revocation and suspension of permits—Generally.

The director may revoke or suspend for a term, as hereinafter provided, any permit issued pursuant to this chapter upon the violation of any of the rules, requirements or restrictions of this chapter. No permit, however, shall be revoked until after a hearing shall have been held by the director to determine just cause for such revocation. At such hearing the permittee shall be given the opportunity to present evidence and argument against revocation or suspension. Notice of such hearing shall be given the permittee by mailing at least five (5) days prior to such hearing a written statement setting forth the ground of complaint, addressed to the permittee at the address on this permit. The decision of the director shall be final. After such hearing the director may suspend such permit for a term not to exceed sixty (60) days, may revoke the permit or may dismiss the complaint.

Sec. 14.3-20. Permit nontransferable; grounds for revocation of permit.

The sale or transfer of the interest of the permittee in a massage parlor shall render null and void any permit issued pursuant to this chapter. The enlargement or alteration of the structure at which the massage parlor is operated shall be deemed to revoke such permit, ipso facto, unless the information required by section 14.3-4 shall have been first filed with the director.

Sec. 14.3-21. Penalty.

Any person who shall violate any of the provisions of this chapter shall, in addition to the provisions of section 14.3-19 and unless otherwise indicated, be guilty of a Class 1 misdemeanor and, upon conviction thereof, shall be punished, in accordance with section 1-10 of this Code.

Sec. 14.3-22. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this chapter, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof.